<u>REMARKS</u>

Applicant respectfully requests further examination and reconsideration in view of the comments set forth fully below. Claims 1-20 and 29-51 were previously pending in this application. Within the Office Action, Claims 1-20 and 29-51 have been rejected. Accordingly, Claims 1-20 and 29-51 are now pending in this application.

<u>Rejections Under 35 U.S.C. § 103</u>

Within the Office Action, Claims 1-14, 18, 19, 29-39, 41-47 and 49-51 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,848,064 to Cowan ("Cowan") in view of U.S. Patent No. 7,117,482 to Nguyen et al. ("Nguyen"). The Applicants respectfully disagree.

Cowan teaches a wireless communication system and method where software upgrades are wirelessly transmitted to a mobile device based on a determination of whether such an upgrade is necessary. During an initial boot-up procedure, each mobile device queries or otherwise prompts a host computer connected to the system backbone to identify a version of operating software which is stored in the host computer. The mobile device compares the version indicia provided from the host computer with information identifying the version of operating software the mobile device presently has stored within. If the mobile device does not currently have the operating software version identified by the host computer, the mobile device prompts the host computer to download the version stored in the host computer. Otherwise, the mobile device simply continues to operate using the operating software currently stored therein. [Cowan, col. 2, lines 36-55] However, Cowan does not teach increasing the subscriber content version number if the version number is larger than the subscriber content version number.

Within the Office Action it is recognized that Cowan does not teach comparison of version numbers to determine which is greater. Nguyen is cited for this limitation. However, even if Nguyen teaches comparison of version numbers to determine which is greater, Cowan, Nguyen and their combination still do not teach the presently-claimed invention.

Nguyen teaches a method of migrating parameter value settings from an older version of software to a newer version of software in a device containing software to be upgraded. [Nguyen, col. 1, lines 36-37]. Nguyen teaches that a computer program is used to generate a map file of the parameters in the new software version of software, and to generate a program to access the parameter values once they are stored in a device. [Nguyen, col. 1, lines 43-47]. The map file

includes a version number corresponding to the version number of the software. The map file and access program are then included within the software which is loaded into system memory of the device. [Nguyen, col. 1, lines 49-51]. Thus, Nguyen sends the entire new software update before it can perform any version number checking against the existing software. Since Nguyen sends the entire new software update before it can perform any version number checking, Nguyen does not teach a subscriber configured to receive the content from the syndicator if the version number is larger than the subscriber version number wherein the syndicator is remote from the subscriber. Further, Nguyen does not teach increasing the subscriber content version number if the version number is larger than the subscriber content version number. As discussed above, Cowan also does not teach a subscriber configured to receive the content from the syndicator (or control circuit) and increase the subscriber content version number if the version number is larger than the subscriber content version number wherein the syndicator is remote from the subscriber. Thus, even if Nguyen teaches comparison of version numbers to determine which is greater, Cowan, Nguyen and their combination do not teach a subscriber configured to receive the content from the syndicator and increase the subscriber content version number if the version number is larger than the subscriber version number wherein the syndicator is remote from the subscriber.

Furthermore, Nguyen teaches that the version number of the current software is determined by reading a version number parameter value stored in a non-volatile random access memory (NVRAM) stored on the device being upgraded. [Nguyen, Abstract] Then, Nguyen teaches that the current version number parameter stored in the NVRAM is compared with a map file. [Nguyen, col. 8, lines 34-47] The map file is included within the software which is loaded into system memory of the device. [Nguyen, col. 1, lines 36-53] Thus, in Nguyen the comparison occurs on one device and requires loading the software before the comparison occurs. However, in the claimed invention, a current version number of content is stored within a syndicator, and the current version number is increased when the content stored within the syndicator is updated. A subscriber version number is defined for content stored within a subscriber, and the current version number is transmitted from the syndicator to the subscriber. A synchronization verification is implemented to compare the subscriber version number and the current version number to determine if the content should be downloaded. Therefore, the claimed invention differs from Nguyen in that the syndicator content number is increased, and the subscriber content number is also increased after a download from the syndicator occurs.

Furthermore, the comparison of the claimed invention occurs without downloading the content on the syndicator.

In contrast to the teachings of Cowan, Nguyen and their combination, the presently claimed invention teaches systems and methods that distribute and synchronize version based content from a syndicator to a subscriber. [Present Specification, page 1, lines 7-8]. The syndicator can comprise any appropriately configured computer system or wireless internet access device. The syndicator includes a CPU 2, a main memory 6, a display adapter 4, a version based content storage device 10, a data transfer circuit 8, and a data synchronization circuit 12, all coupled together by a conventional bidirectional system bus 18. [Present Specification, page 8, lines 13-19] The syndicator is configured to distribute the version based content and the subscriber is configured to store the version based content as well as the subscriber content. [Present Specification, lines 12-14]. The subscriber is configured to compare the version based content's version number with the subscriber content version number. If the version based content's version number is higher than the subscriber's content version number, then the subscriber is configured to store the content from the syndicator and increase the subscriber version number. [Present Specification, page 2, lines 18-21 and page 6, lines 1-9].

Cowan, Nguyen and their combination do not teach increasing the subscriber version number if the version number is larger than the subscriber content version number. Accordingly, Cowan, Nguyen and their combination do not teach the presently claimed invention.

Claim 1

The independent Claim 1 is directed to a version based content distribution system comprising content comprising a version number, a syndicator, wherein the syndicator is configured to transmit the version number, subscriber content comprising a subscriber content version number, and a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator and increase the subscriber content version number if the version number is larger than the subscriber content version number, wherein the syndicator is remote from the subscriber. As discussed above, Cowan, Nguyen and their combination do not teach a subscriber configured to receive the content from the syndicator and increase the subscriber content version number if the version number is larger than the subscriber version number wherein the syndicator is remote from the subscriber. For at least these reasons, the independent Claim 1 is allowable over Cowan, Nguyen, and their combination.

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Claims 2-14, 18 and 19 are all dependent from the independent Claim 1. As discussed above, the independent Claim 1 is allowable over Cowan, Nguyen and their combination. Accordingly, Claims 2-14, 18 and 19 are all also allowable as being dependent upon an allowable base claim.

Claim 29

The independent Claim 29 is directed to a content subscription system. The content subscription system of Claim 29 comprises a server, a subscriber, a server content identification circuit configured to transmit a first signal representative of a version identifier, wherein the version identifier corresponds to a first content stored within the server, a subscriber content identification circuit configured to receive the version identifier and the first content stored within the server, wherein the subscriber content identification circuit is further configured to generate a second signal representative of a subscriber version identifier, wherein the subscriber version identifier corresponds to a second content stored within the subscriber, and a content control circuit configured to transmit the first content to the subscriber content identification circuit and increase the subscriber version identifier in response to the second signal if the first signal is larger than the second signal, wherein the server, the server content identification circuit and the content control circuit are remote from the subscriber and the subscriber content identification circuit. As described above, Cowan, Nguyen and their combination do not teach increasing the subscriber version identifier in response to the second signal if the first signal is larger than the second signal. For at least these reasons, the independent Claim 29 is allowable over Cowan.

Claims 30-34 are all dependent from the independent Claim 29. As discussed above, the independent Claim 29 is allowable over Cowan, Nguyen and their combination. Accordingly, Claims 30-34 are all also allowable as being dependent upon an allowable base claim.

Claim 35

The independent Claim 35 is directed to a method of distributing content. The method of Claim 35 comprises defining a version number for content stored on a computer readable storage medium within a syndicator, increasing the version number when the content stored within the syndicator is updated, defining a subscriber version number for content stored on a computer readable storage medium within a subscriber, wherein the subscriber is remote from the

syndicator, transmitting the version number from the syndicator to the subscriber, performing a synchronization verification wherein the subscriber version number is compared to the version number, downloading the content stored within the syndicator to the subscriber if the subscriber version number is found to be less than the version number during the synchronization verification, and increasing the subscriber version number to correspond to the version number following downloading of the content stored within the syndicator. As described above, Cowan, Nguyen and their combination do not teach increasing the version number when the content stored within the syndicator is updated. For at least these reasons, the independent Claim 35 is allowable over Cowan, Nguyen, and their combination.

Claims 36-39 and 41-43 are all dependent from the independent Claim 35. As discussed above, the independent Claim 35 is allowable over Cowan, Nguyen and their combination. Accordingly, Claims 36-39 and 41-43 are all also allowable as being dependent upon an allowable base claim.

Claim 44

The independent Claim 44 is directed to a method of distributing content to a subscriber comprising defining a subscriber version number for content stored on a computer readable storage medium within a subscriber, receiving a syndicator version number for content to be distributed from a syndicator to the subscriber, wherein the syndicator is remote from the subscriber, performing a synchronization verification wherein the subscriber version number is compared to the syndicator version number, downloading the content to be distributed from the syndicator to the subscriber if the subscriber version number is found to be less than the syndicator version number during the synchronization verification and increasing the subscriber version number to correspond to the syndicator version number following downloading of the content. As described above, Cowan, Nguyen and their combination do not teach increasing the subscriber version number to correspond to the syndicator version number following downloading of the content. For at least these reasons, the independent Claim 44 is allowable over Cowan, Nguyen, and their combination.

Claims 45-47 and 49-51 are all dependent from the independent Claim 44. As discussed above, the independent Claim 44 is allowable. Accordingly, Claims 45-47 and 49-51 are all also allowable as being dependent upon an allowable base claim.

Within the Office Action, Claims 15-17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Cowan in view of U.S. Patent No. 6,990,498 to Fenton et al. The Applicants respectfully disagree.

Claims 15-17 are all dependent from the independent Claim 1. As discussed above, the independent Claim 1 is allowable. Accordingly, Claims 15-17 are all also allowable as being dependent upon an allowable base claim.

Furthermore, the combination of Cowan with Fenton is improper. Fenton is directed to a dynamic graphical index of website content. Fenton has nothing to do with version based content distribution, thus there is no motivation to combine Cowan and Fenton. Furthermore, Cowan and Fenton are nonanalogous art, thus they should not be combined. As described above, Cowan is directed to a wireless software upgrade system with version control and Fenton is directed to dynamic graphical indexing of website content. Thus, again Cowan and Fenton are nonanalogous art and should not be combined. For at least these additional reasons, the Claims 15-17 are allowable over the teachings of the prior art.

Within the Response to Arguments section of the Office Action, in response to the arguments above that Fenton is nonanalogous art, it is stated that Claims 15-17 have nothing to do with a version based content distribution. Applicants respectfully disagree. Claims 15-17 all begin with "The version based content distribution system..." Furthermore, Claim 16 includes claim language towards channels, subchannels and categories. Thus, Fenton which is directed to a dynamic graphical index of website content is nonanalogous art compared to the claimed invention of distributing and synchronizing version based content from a syndicator to a subscriber.

Within the Office Action, Claim 20 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Cowan in view of U.S. Patent No. 6,119,165 to Li et al. The Applicants respectfully disagree.

Claim 20 is dependent from the independent Claim 1. As discussed above, the independent Claim 1 is allowable. Accordingly, Claim 20 is also allowable as being dependent upon an allowable base claim.

Within the Office Action, Claims 31, 40 and 48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Cowan in view of U.S. Patent Application No. 2001/0042073 to Saether et al. The Applicants respectfully disagree.

Claims 31, 40 and 48 are dependent on the independent Claims 29, 35 and 44, respectively. As discussed above, the independent Claims 29, 35 and 44 are all allowable.

Accordingly, Claims 31, 40 and 48 are all also allowable as being dependent upon an allowable base claim.

For the reasons given above, the Applicants respectfully submit that the claims are in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,

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Dated: <u>June 16, 2010</u>   By: <u>/Jonathan O. Owens/</u>

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